

AMENDED IN ASSEMBLY AUGUST 4, 2014

AMENDED IN ASSEMBLY JULY 1, 2014

AMENDED IN ASSEMBLY JUNE 11, 2014

AMENDED IN SENATE MAY 6, 2014

AMENDED IN SENATE APRIL 21, 2014

AMENDED IN SENATE APRIL 8, 2014

AMENDED IN SENATE MARCH 10, 2014

SENATE BILL

No. 936

Introduced by Senator Monning
(Principal coauthor: Senator Cannella)
(Principal coauthors: Assembly Members Alejo and Stone)

February 3, 2014

An act to amend Sections 955.1 and 3440.1 of the Civil Code, to amend Section 9109 of the Commercial Code, to add Section 6537 to the Government Code, to amend Section 1731 of, to add Section 1770 to, and to add Article 5.7 (commencing with Section 849) to Chapter 4 of Part 1 of Division 1 of, the Public Utilities Code, and to add Article 8 (commencing with Section 685) to Chapter 3 of Part 5 of the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977), relating to ~~water~~ *utilities*.

LEGISLATIVE COUNSEL'S DIGEST

SB 936, as amended, Monning. ~~Monterey Peninsula Water Management District: financing orders and water rate relief bonds.~~ *Utilities.*

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including water corporations. Existing law authorizes the commission to fix just and reasonable rates and charges. The existing Monterey Peninsula Water Management District Law establishes the Monterey Peninsula Water Management District and provides for its powers and purposes.

This bill would authorize the commission to issue financing orders to facilitate the recovery, financing, or refinancing of water supply costs, defined to mean reasonable and necessary costs incurred or expected to be incurred by a qualifying water utility, as defined, undertaking water supply activities, as specified. The bill would authorize the Monterey Peninsula Water Management District to issue water rate relief bonds if the commission finds that the bonds will provide savings to water customers on the Monterey Peninsula, as specified.

(2) This bill would make legislative findings and declarations as to the necessity of a special statute for the Monterey Peninsula, the California American Water, and the Monterey Peninsula Water Management District.

(3) Existing law requires the Public Utilities Commission to issue a decision and order or rehearing regarding the implementation of certain provisions of law related to the Department of Water Resources within 20 days after the filing of an application. ~~This~~

This bill would allow the commission 210 days to issue the decision and order.

(4) Existing law makes any public utility, as defined, and any corporation other than a public utility that violates the Public Utilities Act guilty of a crime.

Existing law requires that certain transfers be deemed perfected against 3rd persons upon the execution and delivery to the transferee an assignment of the transfer in writing, excluding transfers or assignments of transition property or recovery property. Existing law provides generally that a transfer of personal property not accompanied by delivery and change of possession of the property is void against the transferor's creditors, except for certain specified transfers or types of property, including transition property or recovery property.

This bill would remove the exceptions for transition property and recovery property from these provisions.

Because a violation of certain provisions of the bill would be a violation of the act, this bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Under existing law, the Public Utilities Commission has
4 regulatory authority over public utilities, including water utilities.
5 Existing law authorizes the commission to fix just and reasonable
6 rates and charges.

7 (b) To address the unique needs for integrated water
8 management on the Monterey Peninsula, the Legislature adopted
9 special legislation creating the Monterey Peninsula Water
10 Management District (Monterey Peninsula Water Management
11 District Law, as added by Section 118 of Chapter 527 of the
12 Statutes of 1977, as amended).

13 (c) California American Water (CAW) is the water utility that
14 provides water to most of the residents and businesses within the
15 Monterey Peninsula.

16 (d) CAW provides water to its customers from the surface water
17 in the Carmel River and its tributaries, water in the Carmel Valley
18 Alluvial Aquifer that underlies the Carmel River, and water in the
19 Seaside Groundwater Basin that includes the Northern and
20 Southern Coastal Subunits and the Northern and Southern Inland
21 Subareas.

22 (e) CAW's lawful right to obtain water supplies from the Carmel
23 Valley Alluvial Aquifer was determined by the State Water
24 Resources Control Board (SWRCB) in SWRCB Order No. WR
25 95-10, dated July 6, 1995. The SWRCB found that CAW does not
26 possess the legal right to divert from the Carmel River system the
27 amount of water historically, and presently, being diverted, and

1 required CAW to diligently pursue a substitute water supply.
2 SWRCB Order No. WR 95-10 limited CAW production from the
3 Carmel River system to 10,308 acre-feet annually (Water Year
4 2012), and ordered CAW to terminate its unpermitted diversions
5 from the Carmel River, and in the interim, to maximize its
6 production from the Seaside Groundwater Basin.

7 (f) Subsequently, the SWRCB issued a cease and desist order
8 (CDO) against CAW in October 2009 as Order No. WR 2009-0060.
9 The CDO prescribed a series of significant cutbacks to CAW's
10 production from the Carmel River system from January 2010 to
11 December 2016, inclusive. Pursuant to the CDO, CAW's customers
12 are subject to a moratorium on water permits for new construction
13 and remodels, and may be subject to water rationing, fines, or both
14 if CAW production limits are exceeded.

15 (g) CAW's ability to produce water from the Seaside
16 Groundwater Basin has also been limited by the adjudication of
17 the Monterey County Superior Court. CAW's right to groundwater
18 from Coastal Subareas and the Laguna Seca Subarea of the Seaside
19 Groundwater Basin, without causing adverse effects such as
20 seawater intrusion, declining water levels, or land subsidence,
21 characterized as a "safe yield," was determined in California
22 American Water v. City of Seaside (2010) (183 Cal.App.4th 471).
23 The 2006 final judgment imposes a series of pumping reductions
24 designed to limit production of natural basin water to its safe yield,
25 initially set at 3,000 acre-feet per year. CAW's share of the safe
26 yield is reduced proportionately at each stage.

27 (h) The need for infrastructure to expand CAW sources of water
28 has been heightened by the lack of legal water supplies resulting
29 from the CDO, SWRCB Order No. WR 95-10, the listing of the
30 California red-legged frog and the steelhead trout as threatened
31 species under the federal Endangered Species Act of 1973 (16
32 U.S.C. Sec. 1531 et seq.) and the limitations on water from the
33 Seaside Groundwater Basin adjudication.

34 (i) These circumstances create a special and unique need to
35 augment potable water supplies on the Monterey Peninsula.
36 Potential infrastructure projects necessary to develop new sources
37 of supply to resolve the critical water supply shortage within
38 CAW's Monterey County District include desalination, aquifer
39 storage and recovery projects, and the production and use of
40 recycled water.

1 (j) It may benefit the customers of CAW to finance the capital
2 costs associated with the construction and installation of water
3 infrastructure, plants, and facilities necessary to resolve the critical
4 water supply shortage through an alternative financing mechanism.

5 (k) Alternative financing mechanisms exist that can result in
6 lower costs to customers of CAW as compared to traditional utility
7 financing mechanisms. To use alternative financing mechanisms,
8 the Public Utilities Commission must be empowered to issue
9 financing orders to allow the issuance of bonds secured by water
10 supply property.

11 (l) CAW customers may take advantage of additional costs
12 savings if a public agency assists in the financing of water project
13 capital costs on a tax-exempt basis. It is necessary for California
14 to provide express authority for a public agency to issue bonds or
15 other evidences of indebtedness on this basis.

16 (m) In confirming the Public Utilities Commission's authority
17 to approve water supply property, including a dedicated customer
18 surcharge to support the issuance of water rate relief bonds, the
19 Legislature is not ratifying or endorsing any particular outcome
20 for proceeding A.12-04-019, but rather is authorizing a means by
21 which the commission may reduce the cost impact on Monterey
22 Peninsula customers if a water supply project is approved by the
23 commission in proceeding A.12-04-019.

24 SEC. 2. Section 955.1 of the Civil Code is amended to read:

25 955.1. (a) Except as provided in Sections 954.5 and 955 and
26 subject to subdivisions (b) and (c), a transfer other than one
27 intended to create a security interest pursuant to paragraph (1) or
28 (3) of subdivision (a) of Section 9109 of the Commercial Code,
29 of any payment intangible, as defined in Section 9102 of the
30 Commercial Code, and any transfer of accounts, chattel paper,
31 payment intangibles, or promissory notes excluded from the
32 coverage of Division 9 of the Commercial Code by paragraph (4)
33 of subdivision (d) of Section 9109 of the Commercial Code shall
34 be deemed perfected as against third persons upon there being
35 executed and delivered to the transferee an assignment thereof in
36 writing.

37 (b) As between bona fide assignees of the same right for value
38 without notice, the assignee first giving notice of the right to the
39 obligor in writing has priority.

1 (c) The assignment is not, of itself, notice to the obligor so as
2 to invalidate any payments made by the obligor to the transferor.

3 (d) This section does not apply to transfers or assignments of
4 ~~transition property, as defined in Section 840 of the Public Utilities~~
5 ~~Code, transfers or assignments of recovery property, as defined in~~
6 ~~Section 848 of the Public Utilities Code, or transfers or assignments~~
7 ~~of water supply property, as defined in Section 849 of the Public~~
8 ~~Utilities Code.~~

9 SEC. 3. Section 3440.1 of the Civil Code is amended to read:

10 3440.1. This chapter does not apply to any of the following:

11 (a) Things in action.

12 (b) Ships or cargoes if either are at sea or in a foreign port.

13 (c) The sale of accounts, chattel paper, payment intangibles, or
14 promissory notes governed by the Uniform Commercial Code,
15 security interests, and contracts of bottomry or respondentia.

16 (d) Wines or brandies in the wineries, distilleries, or wine cellars
17 of the makers or owners of the wines or brandies, or other persons
18 having possession, care, and control of the wines or brandies, and
19 the pipes, casks, and tanks in which the wines or brandies are
20 contained, if the transfers are made in writing and executed and
21 acknowledged, and if the transfers are recorded in the book of
22 official records in the office of the county recorder of the county
23 in which the wines, brandies, pipes, casks, and tanks are situated.

24 (e) A transfer or assignment made for the benefit of creditors
25 generally or by an assignee acting under an assignment for the
26 benefit of creditors generally.

27 (f) Property exempt from enforcement of a money judgment.

28 (g) Standing timber.

29 (h) Subject to the limitations in Section 3440.3, a transfer of
30 personal property if all of the following conditions are satisfied:

31 (1) Before the date of the intended transfer, the transferor or the
32 transferee files a financing statement, with respect to the property
33 transferred, authorized in an authenticated record by the transferor.
34 The financing statement shall be filed in the office of the Secretary
35 of State in accordance with Chapter 5 (commencing with Section
36 9501) of Division 9 of the Commercial Code, but may use the
37 terms “transferor” in lieu of “debtor” and “transferee” in lieu of
38 “secured party.” The provisions of Chapter 5 (commencing with
39 Section 9501) of Division 9 of the Commercial Code shall apply
40 as appropriate to the financing statement.

1 (2) The transferor or the transferee publishes a notice of the
2 intended transfer one time in a newspaper of general circulation
3 published in the judicial district in which the personal property is
4 located, if there is one, and if there is none in the judicial district,
5 then in a newspaper of general circulation in the county embracing
6 the judicial district. The publication shall be completed not less
7 than 10 days before the date the transfer occurs. The notice shall
8 contain the name and address of the transferor and transferee and
9 a general statement of the character of the personal property
10 intended to be transferred, and shall indicate the place where the
11 personal property is located and a date on or after which the transfer
12 is to be made.

13 (i) Personal property not located within this state at the time of
14 the transfer or attachment of the lien if the provisions of this
15 subdivision are not used for the purpose of evading this chapter.

16 (j) A transfer of property that (1) is subject to a statute or treaty
17 of the United States or a statute of this state that provides for the
18 registration of transfers of title or issuance of certificates of title
19 and (2) is so far perfected under that statute or treaty that a bona
20 fide purchaser cannot acquire an interest in the property transferred
21 that is superior to the interest of the transferee.

22 (k) A transfer of personal property in connection with a
23 transaction in which the property is immediately thereafter leased
24 by the transferor from the transferee provided the transferee
25 purchased the property for value and in good faith pursuant to
26 subdivision (c) of Section 10308 of the Commercial Code.

27 ~~(l) Transition property, as defined in Section 840 of the Public~~
28 ~~Utilities Code, recovery property, as defined in Section 848 of the~~
29 ~~Public Utilities Code, or water~~ Water supply property, as defined
30 in Section 849 of the Public Utilities Code.

31 (m) A transfer of property by any governmental entity.

32 SEC. 4. Section 9109 of the Commercial Code is amended to
33 read:

34 9109. (a) Except as otherwise provided in subdivisions (c) and
35 (d), this division applies to each of the following:

36 (1) A transaction, regardless of its form, that creates a security
37 interest in personal property or fixtures by contract.

38 (2) An agricultural lien.

39 (3) A sale of accounts, chattel paper, payment intangibles, or
40 promissory notes.

1 (4) A consignment.

2 (5) A security interest arising under Section 2401 or 2505,
3 subdivision (3) of Section 2711, or subdivision (e) of Section
4 10508, as provided in Section 9110.

5 (6) A security interest arising under Section 4210 or 5118.

6 (b) The application of this division to a security interest in a
7 secured obligation is not affected by the fact that the obligation is
8 itself secured by a transaction or interest to which this division
9 does not apply.

10 (c) This division does not apply to the extent that either of the
11 following conditions is satisfied:

12 (1) A statute, regulation, or treaty of the United States preempts
13 this division.

14 (2) The rights of a transferee beneficiary or nominated person
15 under a letter of credit are independent and superior under Section
16 5114.

17 (d) This division does not apply to any of the following:

18 (1) A landlord's lien, other than an agricultural lien.

19 (2) A lien, other than an agricultural lien, given by statute or
20 other rule of law for services or materials, however Section 9333
21 applies with respect to priority of the lien.

22 (3) An assignment of a claim for wages, salary, or other
23 compensation of an employee.

24 (4) A sale of accounts, chattel paper, payment intangibles, or
25 promissory notes as part of a sale of the business out of which they
26 arose.

27 (5) An assignment of accounts, chattel paper, payment
28 intangibles, or promissory notes which is for the purpose of
29 collection only.

30 (6) An assignment of a right to payment under a contract to an
31 assignee that is also obligated to perform under the contract.

32 (7) An assignment of a single account, payment intangible, or
33 promissory note to an assignee in full or partial satisfaction of a
34 preexisting indebtedness.

35 (8) A loan made by an insurance company pursuant to the
36 provisions of a policy or contract issued by it and upon the sole
37 security of the policy or contract.

38 (9) An assignment of a right represented by a judgment, other
39 than a judgment taken on a right to payment that was collateral.

1 (10) A right of recoupment or setoff, provided that both of the
2 following sections apply:

3 (A) Section 9340 applies with respect to the effectiveness of
4 rights of recoupment or setoff against deposit accounts.

5 (B) Section 9404 applies with respect to defenses or claims of
6 an account debtor.

7 (11) The creation or transfer of an interest in or lien on real
8 property, including a lease or rents thereunder, except to the extent
9 that provision is made for each of the following:

10 (A) Liens on real property pursuant to Sections 9203 and 9308.

11 (B) Fixtures pursuant to Section 9334.

12 (C) Fixture filings pursuant to Sections 9501, 9502, 9512, 9516,
13 and 9519.

14 (D) Security agreements covering personal and real property
15 pursuant to Section 9604.

16 (12) An assignment of a claim arising in tort, other than a
17 commercial tort claim, however Sections 9315 and 9322 apply
18 with respect to proceeds and priorities in proceeds.

19 (13) An assignment of a deposit account in a consumer
20 transaction, however Sections 9315 and 9322 apply with respect
21 to proceeds and priorities in proceeds.

22 (14) A security interest created by the assignment of the benefits
23 of a public construction contract under the Improvement Act of
24 1911 (Division 7 (commencing with Section 5000) of the Streets
25 and Highways Code).

26 (15) Transition property, as defined in Section 840 of the Public
27 Utilities Code, except to the extent that the provisions of this
28 division are referred to in Article 5.5 (commencing with Section
29 840) of Chapter 4 of Part 1 of Division 1 of the Public Utilities
30 Code, recovery property, as defined in Section 848 of the Public
31 Utilities Code, except to the extent that the provisions of this
32 division are referred to in Article 5.6 (commencing with Section
33 848) of Chapter 4 of Part 1 of Division 1 of the Public Utilities
34 Code, and water supply property, as defined in Section 849 of the
35 Public Utilities Code, except to the extent that the provisions of
36 this division are referred to in Article 5.7 (commencing with
37 Section 849) of Chapter 4 of Part 1 of Division 1 of the Public
38 Utilities Code.

39 (16) A claim or right of an employee or employee's dependents
40 to receive workers' compensation under Division 1 (commencing

1 with Section 50) or Division 4 (commencing with Section 3200)
2 of the Labor Code.

3 (17) A transfer by a government or governmental unit.

4 SEC. 5. Section 6537 is added to the Government Code, to
5 read:

6 6537. (a) The Legislature finds that it is in the best interest of
7 the communities on the Monterey Peninsula that any joint exercise
8 of powers authority formed under this article to which the Monterey
9 Peninsula Water Management District and one or more other public
10 agencies are members is authorized to issue water rate relief bonds,
11 hereafter “agency bonds,” the proceeds of which will be used to
12 purchase water rate relief bonds that are authorized to be issued
13 by an affiliate of a qualifying water utility in a financing order
14 issued pursuant to Article 5.7 (commencing with Section 849) of
15 Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, to
16 fund any necessary reserves and to pay the costs of issuance of the
17 agency bonds. The agency bonds may be issued only if the
18 commission finds in a financing order that the issuance, due to the
19 availability of a federal or state income tax exemption, will provide
20 savings to water customers on the Monterey Peninsula.

21 (b) Notwithstanding any other provision of law, the joint powers
22 agency may issue bonds pursuant to Article 2 (commencing with
23 Section 6540) or Article 4 (commencing with Section 6584). If
24 the agency issues bonds under this section, the agency,
25 notwithstanding Article 5 (commencing with Section 53760) of
26 Chapter 4 of Part 1 of Division 2 of Title 5, shall not be eligible
27 to file for bankruptcy pursuant to Chapter 9 (commencing with
28 Section 901) of Title 11 of the United States Code as long as the
29 bonds and any related financing costs are outstanding and unpaid
30 and shall remain ineligible for a period of one year and one day
31 after repayment of the bonds and any related financing costs.

32 SEC. 6. Article 5.7 (commencing with Section 849) is added
33 to Chapter 4 of Part 1 of Division 1 of the Public Utilities Code,
34 to read:

35 Article 5.7. Monterey Peninsula Water Supply Securitization
36 Act
37

38
39 849. For purposes of this article, the following definitions shall
40 apply:

1 (a) “Ancillary agreement” means a bond insurance policy, letter
2 of credit, reserve account, surety bond, swap arrangement, hedging
3 arrangement, liquidity or credit support arrangement, or other
4 similar agreement or arrangement entered into in connection with
5 the issuance of water rate relief bonds that is designed to promote
6 the credit quality and marketability of the bonds or to mitigate the
7 risk of an increase in interest rates.

8 (b) “Customer” means an individual, governmental body, trust,
9 business entity, or nonprofit organization that is a customer of the
10 qualifying water utility, has responsibility for a service address
11 provided water service by the utility, or consumes water that has
12 been transmitted or distributed by means of distribution facilities.

13 (c) “District” means the Monterey Peninsula Water Management
14 District, or its successor or assignee.

15 (d) “Financing costs” means the costs to issue, service, repay,
16 or refinance water rate relief bonds, whether incurred or paid upon
17 issuance of the bonds or over the life of the bonds, and approved
18 for recovery by the commission in a financing order. “Financing
19 costs” may include any of the following:

20 (1) Principal, interest, and redemption premiums that are payable
21 on water rate relief bonds.

22 (2) A payment required under an ancillary agreement and an
23 amount required to fund or replenish a reserve account or other
24 account established under an indenture, ancillary agreement, or
25 other financing document relating to the water rate relief bonds.

26 (3) Costs of retiring or funding an existing debt and equity
27 security of a qualifying water utility in connection with the issuance
28 of water rate relief bonds to the extent the securities were issued
29 for the purpose of financing water supply costs.

30 (4) Costs incurred by, on behalf of, or allocated to, a qualifying
31 water utility to obtain modifications of, or amendments to, an
32 indenture, financing agreement, security agreement, or similar
33 agreement or instrument relating to an existing secured or
34 unsecured obligation of a qualifying water utility or an affiliate of
35 a qualifying water utility, or any costs incurred by or allocated to
36 a qualifying water utility to obtain the consent, release, waiver, or
37 approval from the holder of the obligation, that are necessary to
38 be incurred to permit a qualifying water utility to issue or cause
39 the issuance of water rate relief bonds.

1 (5) Taxes, franchise fees, or license fees imposed on water
2 supply charges.

3 (6) Costs related to issuing and servicing water rate relief bonds
4 or the application for a financing order, including, without
5 limitation, servicing fees and expenses, trustee fees and expenses,
6 legal fees and expenses, accounting fees, administrative fees,
7 underwriting and placement fees, financial advisory fees,
8 capitalized interest, rating agency fees, and any other related costs
9 that are approved for recovery in the financing order, including
10 costs incurred by a public financing entity.

11 (7) Other costs as specifically authorized by a financing order.

12 (e) “Financing entity” means either or both of the following:

13 (1) The qualifying water utility, or its subsidiary or affiliate,
14 that is authorized by the commission to issue water rate relief
15 bonds, or acquire water supply property, or both, pursuant to a
16 financing order.

17 (2) A public financing entity authorized to issue water rate relief
18 bonds pursuant to a financing order.

19 (f) “Financing order” means an order of the commission adopted
20 in accordance with this article, which shall include a procedure
21 for periodic true-up adjustments to water supply charges.

22 (g) “Qualifying water utility” means California American Water,
23 or any successor public utility described in Section 2701 of the
24 Public Utilities Code that is engaged in the delivery of water to
25 customers on the Monterey Peninsula.

26 (h) “Public financing entity” means any of the following:

27 (1) The district.

28 (2) A joint exercise of powers authority in which the district is
29 a member.

30 (3) A public agency that is authorized to issue water rate relief
31 bonds, or acquire water supply property, or both.

32 (i) “Service territory” means the geographical area within or
33 surrounding the Monterey Peninsula that the qualifying water
34 utility provides water service to in accordance with its certificate
35 of public convenience and necessity and within which water supply
36 charges may be imposed and collected as further described in the
37 financing order.

38 (j) “True-up adjustment” means a formula-based adjustment to
39 the water supply charges as they appear on customer bills that are
40 necessary to correct for any overcollection or undercollection of

1 the water supply charges authorized by a financing order and to
2 otherwise ensure the timely and complete payment and recovery
3 of water supply costs and financing costs over the authorized
4 repayment term.

5 (k) “Water rate relief bonds” means bonds, notes, certificates
6 of participation or beneficial interest, or other evidences of
7 indebtedness or ownership, issued pursuant to an executed
8 indenture or other agreement of a financing entity, the proceeds
9 of which are used, directly or indirectly, to provide, recover,
10 finance, or refinance water supply costs and financing costs, and
11 that are directly or indirectly secured by, or payable from, water
12 supply property. Water rate relief bonds may be issued
13 simultaneously by two financing entities, but water rate relief
14 bonds shall not be issued after the seventh anniversary of a
15 financing order issued in connection with commission proceeding
16 A.12-04-019. Water rate relief bonds may be issued for a term not
17 to exceed 30 years.

18 (l) “Water supply activity” means an activity or activities by or
19 on behalf of a qualifying water utility in connection with the
20 acquisition and construction of infrastructure directly related to a
21 desalination facility and necessary equipment solely for that
22 facility, including the pipes necessary for conveyance and tanks
23 necessary for water storage, as authorized by the commission in
24 proceeding A.12-04-019.

25 (m) “Water supply charges” means those nonbypassable charges
26 that are authorized by the commission in a financing order to
27 recover water supply costs and all financing costs specified in a
28 financing order.

29 (n) “Water supply costs” means any reasonable and necessary
30 costs, including capitalized interest costs relating to regulatory
31 assets and capitalized costs associated with permitting, design, and
32 engineering work, approved in a financing order, incurred or
33 expected to be incurred by a qualifying water utility in undertaking
34 water supply activities. Water supply costs include preliminary
35 expenses and investments associated with water supply activities
36 that are incurred before the issuance of a financing order and that
37 are to be reimbursed from the proceeds of water rate relief bonds.

38 (o) (1) “Water supply property” means the property right created
39 pursuant to this article, including, without limitation, the right,

1 title, and interest of the qualifying water utility or its transferee in
2 all of the following:

3 (A) In and to the water supply charges established pursuant to
4 a financing order, including all rights to obtain adjustments to the
5 water supply charges in accordance with Section 849.1 and the
6 financing order.

7 (B) To be paid the amount that is determined in a financing
8 order to be the amount that the qualifying water utility or its
9 transferee is lawfully entitled to receive pursuant to the provisions
10 of this article and the proceeds thereof, and in and to all revenues,
11 collections, claims, payments, money, or proceeds of or arising
12 from the water supply charges that are the subject of a financing
13 order.

14 (2) “Water supply property” shall constitute a current property
15 right notwithstanding the fact that the value of the property right
16 will depend on customers using water or, in those instances where
17 customers are customers of the qualifying water utility, the
18 qualifying water utility performing certain services.

19 849.1. (a) (1) The commission may issue financing orders in
20 accordance with this article to facilitate the recovery, financing,
21 or refinancing of water supply costs. A financing order may be
22 adopted only upon the application of the qualifying water utility
23 and shall become effective in accordance with its terms.

24 (2) Commencing January 1, 2015, the qualifying water utility
25 may apply to the commission for a determination that no more
26 than 50 percent of the qualifying water utility’s water supply costs
27 may be recovered through water supply charges, which would be
28 water supply property under this article. *The commission shall not*
29 *approve an increase in a financing order that exceeds a total*
30 *amount of 5 percent.*

31 (3) A public financing entity that proposes to issue water rate
32 relief bonds pursuant to Article 8 of Chapter 3 of Part 5 of the
33 Monterey Peninsula Water Management District Law, as added
34 by Chapter 527 of the Statutes of 1977, or Section 6537 of the
35 Government Code, shall provide information as requested by the
36 commission in connection with the application and proceeding.

37 (4) In its application the qualifying water utility shall specify
38 how customers may benefit from reduced rates on a present value
39 basis through the issuance of water rate relief bonds as compared
40 to the use of traditional utility financing mechanisms. If a public

1 financing entity proposes to issue water rate relief bonds, it shall
2 provide evidence to the commission that the issuance of water rate
3 relief bonds by the public financing entity, due to the availability
4 of a federal or state income tax exemption, will provide savings
5 to water customers on the Monterey Peninsula.

6 (5) The commission shall establish procedures for the
7 expeditious processing of financing order applications, including
8 the approval or disapproval of the qualifying water utility's
9 application, within 180 days of the application submission.

10 (b) The commission shall authorize the imposition and collection
11 of water supply charges in one or more financing orders if the
12 commission determines, as part of its findings in connection with
13 the financing order, that each imposition and collection of the
14 water supply charges, and the issuance of water rate relief bonds
15 payable from those charges, would reduce the rates on a present
16 value basis that customers within the qualifying water utility's
17 service territory would pay as compared to the use of traditional
18 utility financing mechanisms, which shall be calculated using the
19 qualifying water utility's corporate debt and equity in the ratio
20 approved by the commission at the time of the issuance of the
21 financing order. The commission's determination shall consider
22 all customer payments including rates, surcharges, taxes, water
23 supply charges, and any other payments made by customers for
24 water supply activities.

25 (c) ~~(+)~~ The commission shall establish in a financing order an
26 effective mechanism that ensures recovery of water supply costs
27 and financing costs through nonbypassable water supply charges.
28 Water supply charges shall be imposed only on existing and future
29 customers of the qualifying water utility's service territory, and
30 those customers shall be required to pay those charges until the
31 water rate relief bonds and all financing costs are paid in full by
32 the financing entity, at which time those charges shall be
33 terminated. Water supply charges shall be irrevocable,
34 notwithstanding any true-up adjustment pursuant to subdivision
35 (g).

36 ~~(2) The commission shall not approve an increase in a financing~~
37 ~~order that exceeds a total amount of 5 percent.~~

38 (d) A financing order may specify how amounts collected from
39 a customer shall be allocated between water supply charges and

1 other charges of the qualifying water utility, consistent with Section
2 779.2.

3 (e) (1) Notwithstanding Section 455.5 or 1708, or any other
4 provision of law, and except as otherwise provided in subdivision
5 (g), water supply property that has been made the basis for the
6 issuance of water rate relief bonds, the financing order, and the
7 water supply charges shall be irrevocable. The commission shall
8 not, either by rescinding, altering, or amending the financing order
9 or otherwise, revalue or revise for ratemaking purposes the water
10 supply costs or the financing costs, determine that the water supply
11 charges are unjust or unreasonable, or in any way reduce or impair
12 the value of water supply property either directly or indirectly by
13 taking water supply charges into account when setting other rates
14 for the qualifying water utility. The amount of revenues arising
15 shall not be subject to reduction, impairment, postponement, or
16 termination.

17 (2) The State of California does hereby pledge and agree with
18 the qualifying water utility, owners of water supply property, the
19 financing entities, and owners of water rate relief bonds that the
20 state shall neither limit nor alter, except as otherwise provided
21 with respect to true-up adjustment of water supply charges pursuant
22 to subdivision (g), the water supply charges, water supply property,
23 financing orders, or any rights under a financing order until the
24 water rate relief bonds, together with the interest on the bonds,
25 and all related financing costs are fully paid and discharged, or,
26 in the alternative, have been refinanced through an additional issue
27 of water rate relief bonds, provided nothing contained in this
28 section shall preclude the limitation or alteration if and when
29 adequate provision shall be made by law for the protection of the
30 qualifying water utility, financing entities, and owners. The
31 financing entity is authorized to include this pledge and undertaking
32 for the state in the water rate relief bonds.

33 (f) (1) Neither financing orders nor water rate relief bonds
34 issued under this article shall constitute a debt or liability of the
35 state or of any political subdivision of the state except a public
36 financing entity, nor shall they constitute a pledge of the full faith
37 and credit of the state or any of its political subdivisions, but are
38 payable solely from the funds provided therefor under this article
39 and shall be consistent with Sections 1 and 18 of Article XVI of
40 the California Constitution. This subdivision shall not preclude

1 bond guarantees or enhancements pursuant to this article or
2 pursuant to Article 8 of Chapter 3 of Part 5 of the Monterey
3 Peninsula Water Management District Law, as added by Chapter
4 527 of the Statutes of 1977, or Section 6537 of the Government
5 Code. A water rate relief bond shall contain on the face of the bond
6 a statement to the following effect: “Neither the full faith and credit
7 nor the taxing power of the State of California is pledged to the
8 payment of the principal of, or interest on, this bond.”

9 (2) The issuance of water rate relief bonds under this article
10 shall not directly, indirectly, or contingently obligate the state or
11 any political subdivision of the state to levy or to pledge any form
12 of taxation therefor or to make any appropriation for their payment.
13 Nothing in this paragraph shall prevent or be construed to prevent
14 a public financing entity from pledging water supply property, or
15 payments made on water rate relief bonds, together with any
16 reserves or overcollateralization amounts approved in a financing
17 order, to the payment of the water rate relief bonds.

18 (g) Any water supply charge authorized by a financing order
19 shall appear on customer bills as a stand-alone, line-item surcharge.
20 The commission shall, in any financing order, provide for a
21 periodic true-up adjustment to water supply charges, which shall
22 be made at least annually and may be made more frequently. The
23 qualifying water utility shall file an advice letter with the
24 commission to implement any true-up adjustment.

25 (h) Water supply charges are water supply property when, and
26 to the extent that, a financing order authorizing the water supply
27 charges has become effective in accordance with this article, and
28 the water supply property shall thereafter continuously exist as
29 property for all purposes with all of the rights and privileges of
30 this article for the period and to the extent provided in the financing
31 order, but in any event until the water rate relief bonds, including
32 all principal, premium, if any, and interest with respect to the bonds
33 and all other financing costs are paid in full. A financing order
34 may provide that the creation of water supply property shall be
35 simultaneous with the sale of the water supply property to a
36 transferee or assignee as provided in the application and the pledge
37 of the water supply property to secure water rate relief bonds.

38 (i) Any surplus water supply charges in excess of the necessary
39 amounts to pay the principal premium, if any, and interest on the
40 water rate relief bonds and all other financing costs shall be credited

1 to customers through the adjustment mechanism described in
2 subdivision (g) or used to prepay or defease water rate relief bonds,
3 so long as this would not result in a recharacterization of the tax,
4 accounting, and other intended characteristics of the financing,
5 including, but not limited to, the following:

6 (1) Avoiding the recognition of debt on the qualifying water
7 utility's balance sheet for financial accounting and regulatory
8 purposes.

9 (2) Treating the water rate relief bonds as debt of the qualifying
10 water utility or its affiliates for federal income tax purposes.

11 (3) Treating the transfer of the water supply property by the
12 qualifying water utility as a true sale for bankruptcy purposes.

13 (4) Avoiding any adverse impact of the financing on the
14 qualifying water utility's credit rating.

15 (j) (1) The commission may, pursuant to its authority in Section
16 739.8, implement a program to allow the qualifying water utility
17 to exclude low-income water ratepayers from the payment of any
18 water supply charge imposed pursuant to this section, if it
19 determines that the exclusion from the charge will have no
20 significant impact on the ability of the financing entity to finance
21 the water supply activity. The commission may also allow the
22 adjustment of the amount of the charge, as necessary, to cover any
23 costs associated with implementation of the exclusion.

24 (2) For purposes of this subdivision, "low-income" means a
25 household with income that is equal to or no greater than 200
26 percent of the federal poverty guideline level. For one-person
27 households, "low-income" shall be based on the two-person
28 household guidelines.

29 849.2. (a) A qualifying water utility for which a financing
30 order has been issued shall cause the proceeds of any water rate
31 relief bonds issued pursuant to a financing order to be placed in a
32 separate account. A qualifying water utility may use the proceeds
33 of the issuance of water rate relief bonds for paying water supply
34 costs and financing costs and for no other purpose.

35 (b) A financing order may require the qualifying utility to file
36 with the commission a periodic report showing the receipt and
37 disbursement of proceeds of water rate relief bonds. A financing
38 order may authorize the staff of the commission to review and
39 audit the books and records of the qualifying water utility relating
40 to the receipt and disbursement of proceeds of water rate relief

1 bonds. The provisions of this subdivision shall not be construed
2 to limit the authority of the commission to investigate the practices
3 of the qualifying utility or to audit the books and records of the
4 qualifying water utility.

5 (c) A qualifying water utility for which a financing order has
6 been issued shall annually provide to its customers a concise
7 explanation of the water supply charges approved in a financing
8 order, as modified by subsequent issuances of water rate relief
9 bonds authorized under a financing order, if any, and by application
10 of the true-up adjustment mechanism as provided in the financing
11 order. These explanations shall be made after the annual true-up
12 adjustment pursuant to subdivision (g) of Section 849.1 and prior
13 to, or simultaneous with, the effective date of the adjustment, and
14 may be made by bill inserts, Internet Web site information, or other
15 appropriate means. If water rate relief bonds are issued by a public
16 financing entity, the public financing entity, or its trustee or
17 representative, shall provide the information to the qualifying water
18 utility as reasonably requested in order to comply with its
19 obligations under this section.

20 (d) The failure of a qualifying water utility to apply the proceeds
21 of water rate relief bonds in a reasonable, prudent, and appropriate
22 manner or otherwise comply with any provision of this section
23 shall not invalidate, impair, or affect any financing order, water
24 supply property, water supply charges, or water rate relief bonds.

25 849.3. (a) Financing entities may issue water rate relief bonds
26 upon approval by the commission in the financing order. Water
27 rate relief bonds shall be nonrecourse to the credit or any assets
28 of the qualifying water utility, other than the water supply property
29 as specified in the financing order.

30 (b) A qualifying water utility may sell and assign all or portions
31 of its interest in water supply property to an affiliate. A qualifying
32 water utility or its affiliates may sell or assign their interests to one
33 or more financing entities authorized under this article that make
34 that property the basis for issuance of water rate relief bonds to
35 the extent approved in the financing order. A qualifying water
36 utility, its affiliates, or financing entities may pledge and assign
37 water supply property as collateral, directly or indirectly, to the
38 extent approved in the financing order providing for a security
39 interest in the water supply property, in the manner set forth in

1 Section 849.4. In addition, water supply property may be sold or
2 assigned by either of the following:

3 (1) The financing entity or a trustee for the holders of water rate
4 relief bonds or the holder of an ancillary agreement in connection
5 with the exercise of remedies upon a default.

6 (2) A person acquiring the water supply property after a sale or
7 assignment made pursuant to this article.

8 (c) To the extent that any interest in water supply property is
9 sold, assigned, or pledged as collateral, the commission shall
10 authorize the qualifying water utility to contract with the financing
11 entity or entities that it will continue to operate its system to
12 provide service to its customers, will collect water supply charges
13 for the benefit and account of the financing entities and their
14 pledgees, and will account for and remit these amounts to or for
15 the account of the financing entities and their pledgees. Contracting
16 with a financing entity in accordance with that authorization shall
17 not impair or negate the characterization of the sale, assignment,
18 or pledge as an absolute transfer, a true sale, or security interest,
19 as applicable.

20 (d) Water supply property that is specified in a financing order
21 shall constitute an existing, present property right, notwithstanding
22 the fact that the imposition and collection of water supply charges
23 depend on the qualifying water utility continuing to provide water
24 service or continuing to perform its servicing functions relating to
25 the collection of water supply charges or on the level of future
26 water consumption. Water supply property shall exist whether or
27 not the water supply charges have been billed, have accrued, or
28 have been collected and notwithstanding the fact that the value for
29 a security interest in the water supply property, or amount of the
30 water supply property, is dependent on the future provision of
31 service to customers by the qualifying water utility. All water
32 supply property specified in a financing order shall continue to
33 exist until the water supply bonds issued pursuant to a financing
34 order and all other financing costs are paid in full.

35 (e) If a qualifying water utility defaults on any required payment
36 of water supply charge revenues, a court, upon application by an
37 interested party and without limiting any other remedies available
38 to the applying party, shall order the sequestration and payment
39 of the water supply charges, and the proceeds of the water supply
40 charges, for the benefit of bondholders, any assignee and financing

1 entities or their pledgees, and the counterparties to any ancillary
2 agreement. The order shall remain in full force and effect
3 notwithstanding bankruptcy, reorganization, or other insolvency
4 proceedings with respect to the qualifying water utility or any
5 affiliate of the qualifying water utility.

6 (f) Water supply property, water supply charges, and the
7 interests of an assignee, bondholder or financing entity, or any
8 pledgee in water supply property and water supply charges are not
9 subject to setoff, counterclaim, surcharge, or defense by the
10 qualifying utility or any other person or in connection with the
11 bankruptcy, reorganization, or other insolvency proceeding of the
12 qualifying water utility, any affiliate of the qualifying water utility,
13 or any other entity.

14 (g) Notwithstanding Section 1708 or any other provision of law,
15 any requirement under this article, or a financing order, that the
16 commission take action with respect to the subject matter of a
17 financing order, shall be binding upon the commission, as it may
18 be constituted from time to time, and any successor agency exerting
19 functions similar to the commission. The commission shall not
20 have authority to rescind, alter, or amend that requirement in a
21 financing order. The approval by the commission in a financing
22 order of the issuance by the qualifying water utility or a financing
23 entity of water rate relief bonds shall include the approvals, if any,
24 required by Article 5 (commencing with Section 816) and Section
25 701.5. Section 701.5 shall not be construed to prohibit the issuance
26 of water rate relief bonds upon the terms and conditions approved
27 by the commission in a financing order. Section 851 is not
28 applicable to the transfer or pledge of water supply property, the
29 issuance of water rate relief bonds, or related transactions approved
30 in a financing order.

31 (h) A financing entity issuing water rate relief bonds shall
32 include in its preliminary notice and final report for the water rate
33 relief bonds submitted to the California Debt and Investment
34 Advisory Commission pursuant to Section 8855 of the Government
35 Code, a statement that the water rate relief bonds are being issued
36 pursuant to this section. A financing entity issuing water rate relief
37 bonds shall include in its final report for the water rate relief bonds
38 submitted to the California Debt and Investment Advisory
39 Commission pursuant to Section 8855 of the Government Code,

1 the savings realized by issuing the water rate relief bonds rather
2 than using traditional utility financing mechanisms.

3 849.4. (a) A security interest in water supply property is valid,
4 is enforceable against the pledgor and third parties, is subject to
5 the rights of any third party holding a security interest in the water
6 supply property perfected in the manner described in this section,
7 and attaches when all of the following occur:

8 (1) The commission has issued the financing order authorizing
9 the water supply charges included in the water supply property.

10 (2) Value has been given by the pledgees of the water supply
11 property.

12 (3) The pledgor has signed a security agreement that includes
13 an indenture or financing agreement relating to the issuance of the
14 water rater relief bonds covering the water supply property.

15 (b) A valid and enforceable security interest in water supply
16 property is perfected when it has attached and when a financing
17 statement has been filed in accordance with Chapter 5
18 (commencing with Section 9501) of Division 9 of the Commercial
19 Code, naming the pledgor of the water supply property as “debtor”
20 and identifying the water supply property. Any description of the
21 water supply property shall be sufficient if it refers to the financing
22 order creating the water supply property. A copy of the financing
23 statement shall be filed with the commission by the qualifying
24 water utility that is the pledgor or transferor of the water supply
25 property, and the commission may require the qualifying water
26 utility to make other filings with respect to the security interest in
27 accordance with procedures it may establish, provided that the
28 filings do not affect the perfection of the security interest.

29 (c) A perfected security interest in water supply property is a
30 continuously perfected security interest in all revenues and
31 proceeds arising with respect to the water supply property, whether
32 or not the revenues or proceeds have accrued. Conflicting security
33 interests shall rank according to priority in time of perfection.
34 Water supply property shall constitute property for all purposes,
35 including for contracts securing water rate relief bonds, whether
36 or not the revenues and proceeds arising with respect to the water
37 supply property have accrued.

38 (d) Subject to the terms of the security agreement covering the
39 water supply property and the rights of any third party holding a
40 security interest in the water supply property perfected in the

manner described in this section, the validity and relative priority of a security interest created under this section is not defeated or adversely affected by the commingling of revenues arising with respect to the water supply property with other funds of the qualifying water utility that is the pledgor or transferor of the water supply property, or by any security interest in a deposit account of that qualifying water utility perfected under Division 9 (commencing with Section 9101) of the Commercial Code into which the revenues are deposited. Subject to the terms of the security agreement, upon compliance with the requirements of subdivision (b) of Section 9312 of the Commercial Code, the pledgees of the water supply property shall have a perfected security interest in all cash and deposit accounts of the qualifying water utility in which revenues arising with respect to the water supply property have been commingled with other funds, but the perfected security interest shall be limited to an amount not greater than the amount of the revenues with respect to the water supply property received by the qualifying water utility within 12 months before either of the following:

(1) A default under the security agreement.

(2) The institution of insolvency proceedings by or against the qualifying water utility, less payments from the revenues to the pledgees during that 12-month period.

(e) If a default occurs under the security agreement covering the water supply property, the pledgees of the water supply property, subject to the terms of the security agreement, shall have all rights and remedies of a secured party upon default under Division 9 (commencing with Section 9101) of the Commercial Code, and shall be entitled to foreclose or otherwise enforce their security interest in the water supply property, subject to the rights of any third party holding a prior security interest in the water supply property perfected in the manner provided in this section. In addition, the commission may require, in the financing order creating the water supply property, that in the event of default by the qualifying water utility in payment of revenues arising with respect to the water supply property, the commission and any successor to the commission, upon the application by the pledgees or transferees, including transferees under Section 849.5, of the water supply property, and without limiting any other remedies available to the pledgees or transferees by reason of the default,

1 shall order the sequestration and payment to the pledgees or
2 transferees of revenues arising with respect to the water supply
3 property. Any order shall remain in full force and effect
4 notwithstanding bankruptcy, reorganization, or other insolvency
5 proceedings with respect to the debtor, pledgor, or transferor of
6 the water supply property. Any surplus in excess of amounts
7 necessary to pay principal, premium, if any, interest on the water
8 rate relief bonds, and other financing costs arising under the
9 security agreement, shall be remitted to the debtor or to the pledgor
10 or transferor.

11 (f) Sections 9204 and 9205 of the Commercial Code shall apply
12 to a pledge of water supply property by a qualifying water utility,
13 an affiliate of a qualifying water utility, or a financing entity, other
14 than a public financing entity.

15 (g) (1) This section sets forth the terms by which a consensual
16 security interest shall be created and perfected in the water supply
17 property. Unless otherwise ordered by the commission with respect
18 to any series of water rate relief bonds on or before the issuance
19 of the series, there shall exist a statutory lien as provided in this
20 subdivision.

21 (2) Upon the effective date of the financing order, there shall
22 exist a first priority lien on all water supply property then existing
23 or thereafter arising pursuant to the terms of the financing order.
24 This lien shall automatically arise pursuant to this section without
25 any action on the part of the qualifying water utility, any affiliate
26 of the qualifying water utility, the issuing entity, or any other
27 person. This lien shall secure all obligations, then existing and
28 subsequently arising, to the holders of the water rate relief bonds
29 issued pursuant to the financing order, the trustee or representative
30 for the holders, and any other entity specified in the financing
31 order. The persons for whose benefit this lien is established shall,
32 upon occurrence of any defaults specified in the financing order,
33 have all rights and remedies of a secured party upon default under
34 Chapter 1 (commencing with Section 9101) of Division 9 of the
35 Commercial Code, and shall be entitled to foreclose or otherwise
36 enforce this statutory lien in the water supply property. This lien
37 shall attach to the water supply property regardless of who shall
38 own, or shall subsequently be determined to own, the water supply
39 property, including any qualifying water utility, affiliate of the
40 qualifying water utility, financing entity, or any other person. This

1 lien shall be valid, perfected, and enforceable against the owner
2 of the water supply property and all third parties upon the
3 effectiveness of the financing order without any further public
4 notice, provided, however, that any person may, but shall not be
5 required to, file a financing statement in accordance with
6 subdivision (b). These financing statements may be protective
7 filings and shall not be evidence of the ownership of the water
8 supply property.

9 (h) Notwithstanding any other provision of law, Section 5451
10 of the Government Code shall apply to any pledge by the public
11 financing entity of water supply property or other security for any
12 water rate relief bonds issued by a public financing entity.

13 849.5. (a) A sale, assignment, or transfer of water supply
14 property by a qualifying water utility to an affiliate or to a financing
15 entity, or by an affiliate of a qualifying water utility or a financing
16 entity to another financing entity, which the parties, in the
17 governing documentation, have expressly stated to be a sale or
18 other absolute transfer, in a transaction approved in a financing
19 order, shall be treated as an absolute transfer of all of the
20 transferor's right, title, and interest, as in a true sale, and not as a
21 pledge or other financing order of the water supply property, other
22 than for federal and state income and franchise tax purposes.

23 (b) The characterization of the sale, assignment, or transfer as
24 an absolute transfer and true sale and the corresponding
25 characterization of the property interest of the purchaser shall not
26 be affected or impaired by, among other things, the occurrence of
27 any of the following:

28 (1) Commingling of water supply charge revenues with other
29 amounts.

30 (2) The retention by the seller of either of the following:

31 (A) A partial or residual interest, including an equity interest,
32 in the water supply property, whether direct or indirect, subordinate
33 or otherwise.

34 (B) The right to recover costs associated with taxes, franchise
35 fees, or license fees imposed on the collection of water supply
36 charge revenues.

37 (3) Any recourse that the purchaser may have against the seller.

38 (4) Any indemnification rights, obligations, or repurchase rights
39 made or provided by the seller.

1 (5) The obligation of the seller to collect water supply charge
2 revenues on behalf of an assignee.

3 (6) The treatment of the sale, assignment, or transfer for tax,
4 financial reporting, or other purposes.

5 (7) Any true-up adjustment of the water supply charges as
6 provided in the financing order.

7 (c) A sale, assignment, or transfer of water supply property shall
8 be deemed perfected against third persons when both of the
9 following occur:

10 (1) The commission issues the financing order authorizing the
11 water supply charges included in the water supply property.

12 (2) An assignment of the water supply property in writing has
13 been executed and delivered to the transferee.

14 (d) As between bona fide assignees of the same right for value
15 without notice, the assignee first filing a financing statement in
16 accordance with Chapter 5 (commencing with Section 9501) of
17 Division 9 of the Commercial Code naming the assignor of the
18 water supply property as debtor and identifying the water supply
19 property has priority. Any description of the water supply property
20 shall be sufficient if it refers to the financing order creating the
21 water supply property. A copy of the financing statement shall be
22 filed by the assignee with the commission, and the commission
23 may require the assignor or the assignee to make other filings with
24 respect to the transfer in accordance with procedures it may
25 establish, but these filings shall not affect the perfection of the
26 transfer.

27 849.6. A successor to the qualified water utility, whether
28 pursuant to bankruptcy, reorganization, or other insolvency
29 proceeding, or pursuant to merger, sale, or transfer, by operation
30 of law, or otherwise, shall perform and satisfy all obligations of
31 the qualifying water utility pursuant to this article in the same
32 manner and to the same extent as the qualified water utility,
33 including, but not limited to, collecting and paying to the holders
34 of water rate relief bonds or any financing entities or their pledgees
35 revenues arising with respect to the water supply property sold to
36 the applicable financing entity or pledged to secure water rate relief
37 bonds.

38 SEC. 7. Section 1731 of the Public Utilities Code is amended
39 to read:

1 1731. (a) The commission shall set an effective date when
2 issuing an order or decision. The commission may set the effective
3 date of an order or decision before the date of issuance of the order
4 or decision.

5 (b) (1) After an order or decision has been made by the
6 commission, a party to the action or proceeding, or a stockholder,
7 bondholder, or other party pecuniarily interested in the public
8 utility affected may apply for a rehearing in respect to matters
9 determined in the action or proceeding and specified in the
10 application for rehearing. The commission may grant and hold a
11 rehearing on those matters, if in its judgment sufficient reason is
12 made to appear. A cause of action arising out of any order or
13 decision of the commission shall not accrue in any court to any
14 corporation or person unless the corporation or person has filed
15 an application to the commission for a rehearing within 30 days
16 after the date of issuance or within 10 days after the date of
17 issuance in the case of an order issued pursuant to either Article
18 5 (commencing with Section 816) or Article 6 (commencing with
19 Section 851) of Chapter 4 relating to security transactions and the
20 transfer or encumbrance of utility property.

21 (2) The commission shall notify the parties of the issuance of
22 an order or decision by either mail or electronic transmission.
23 Notification of the parties may be accomplished by one of the
24 following methods:

25 (A) Mailing the order or decision to the parties to the action or
26 proceeding.

27 (B) If a party to an action or proceeding consents in advance to
28 receive notice of any order or decision related to the action or
29 proceeding by electronic mail address, notification of the party
30 may be accomplished by transmitting an electronic copy of the
31 official version of the order or decision to the party if the party
32 has provided an electronic mail address to the commission.

33 (C) If a party to an action or proceeding consents in advance to
34 receive notice of any order or decision related to the action or
35 proceeding by electronic mail address, notification of the party
36 may be accomplished by transmitting a link to an Internet Web
37 site where the official version of the order or decision is readily
38 available to the party if the party has provided an electronic mail
39 address to the commission.

1 (3) For the purposes of this article, “date of issuance” means
2 the mailing or electronic transmission date that is stamped on the
3 official version of the order or decision.

4 (c) A cause of action arising out of an order or decision of the
5 commission construing, applying, or implementing the provisions
6 of Chapter 4 of the Statutes of the 2001–02 First Extraordinary
7 Session that (1) relates to the determination or implementation of
8 the department’s revenue requirements, or the establishment or
9 implementation of bond or power charges necessary to recover
10 those revenue requirements, or (2) in the sole determination of the
11 Department of Water Resources, the expedited review of order or
12 decision of the commission is necessary or desirable, for the
13 maintenance of any credit ratings on any bonds or notes of the
14 department issued pursuant to Division 27 (commencing with
15 Section 80000) of the Water Code or for the department to meet
16 its obligations with respect to any bonds or notes pursuant to that
17 division, shall not accrue in any court to any corporation or person
18 unless the corporation or person has filed an application with the
19 commission for a rehearing within 10 days after the date of
20 issuance of the order or decision. The Department of Water
21 Resources shall notify the commission of any determination
22 pursuant to paragraph (2) of this subdivision before the issuance
23 by the commission of any order or decision construing, applying,
24 or implementing the provisions of Chapter 4 of the Statutes of the
25 2001–02 First Extraordinary Session. The commission shall issue
26 its decision and order on rehearing within 210 days after the filing
27 of the application.

28 (d) A cause of action arising out of an order or decision of the
29 commission construing, applying, or implementing the provisions
30 of Article 5.7 (commencing with Section 849) of Chapter 4 shall
31 not accrue in any court to any entity or person unless the entity or
32 person has filed an application to the commission for a rehearing
33 within 10 days after the date of issuance of the order or decision.
34 The commission shall issue its decision and order on rehearing
35 within 210 days after the filing of that application.

36 SEC. 8. Section 1770 is added to the Public Utilities Code, to
37 read:

38 1770. The following procedures shall apply to the judicial
39 review of an order or decision of the commission in interpreting,
40 implementing, or applying the provisions of Article 5.7

(commencing with Section 849) of Chapter 4 of Part 1 of Division 1:

(a) Within 30 days after the commission issues its order or decision denying the application for a rehearing or, if the application is granted, within 30 days after the commission issues its decision on rehearing, an aggrieved party may petition for a writ of review in the California Supreme Court for the purpose of determining the lawfulness of the original order or decision or of the order or decision on the rehearing. If the writ is issued, it shall be made returnable at a time and place specified by court order and shall direct the commission to certify its record in the case to the court within the time specified. No order of the commission interpreting, implementing, or applying the provisions of Article 5.7 (commencing with Section 849) of Chapter 4 of Part 1 of Division 1 shall be subject to review in a court of appeals.

(b) The petition for review shall be served upon the executive director of the commission either personally or by service at the office of the commission.

(c) For purposes of this section, the issuance of a decision or the granting of an application shall be construed to have occurred on the date when the commission mails the decision or grant to the parties of the action or proceeding.

(d) To the extent that the provisions do not conflict, provisions in this article shall apply to actions under this section.

SEC. 9. Article 8 (commencing with Section 685) is added to Chapter 3 of Part 5 of the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977), to read:

Article 8. Tax Exempt Water Relief Reduction Bonds

685. (a) The district may issue water rate relief bonds for the purpose of purchasing water rate relief bonds issued by another financing entity pursuant to a financing order authorized pursuant to Article 5.7 (commencing with Section 849) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, to fund any necessary reserves and to pay the costs of issuance of the water rate relief bonds. These bonds may be issued only if the commission finds in the financing order that the issuance, due to the availability of a federal or state income tax exemption, will provide savings to water customers on the Monterey Peninsula. These bonds issued

1 by the district, or “district bonds,” shall be denominated “Monterey
2 Peninsula Water Management District Water Rate Relief Bonds.”
3 These bonds shall have designations, details, and terms, be payable
4 at times and places, and be sold in a manner as determined by the
5 board. The resolution shall authorize the district to enter into a
6 trust agreement or similar security agreement to secure payment
7 of the district bonds.

8 (b) The district bonds shall be special limited obligations of the
9 district, and shall be payable solely from payments made on the
10 water rate relief bonds purchased with the proceeds of the district
11 bonds and any reserve funded from the proceeds of the district
12 bonds. The bonds shall not be payable from any other funds or
13 assets of the district, and neither the full faith and credit nor taxing
14 power of the district shall be pledged to or exercised for the
15 payment of the bonds.

16 686. If the district authorizes the issuance of bonds under
17 Section 685, the district, notwithstanding Article 5 (commencing
18 with Section 53760) of Chapter 4 of Part 1 of Division 2 of Title
19 5 of the Government Code, shall not be eligible to file for
20 bankruptcy pursuant to Chapter 9 (commencing with Section 901)
21 of Title 11 of the United States Code as long as the district bonds
22 and related financing costs are outstanding and unpaid and shall
23 remain ineligible for a period of one year and one day following
24 the full payment of the bonds and costs.

25 SEC. 10. The provisions of this act are severable. If any
26 provision of this act or its application is held invalid, that invalidity
27 shall not affect other provisions or applications that can be given
28 effect without the invalid provision or application.

29 SEC. 11. The Legislature finds and declares that a special law
30 is necessary and that a general law cannot be made applicable
31 within the meaning of Section 16 of Article IV of the California
32 Constitution because of the unique circumstances applicable only
33 to the Monterey Peninsula, Californian American Water, and the
34 Monterey Peninsula Water Management District. Therefore, this
35 special statute is necessary.

36 SEC. 12. No reimbursement is required by this act pursuant to
37 Section 6 of Article XIII B of the California Constitution because
38 the only costs that may be incurred by a local agency or school
39 district will be incurred because this act creates a new crime or
40 infraction, eliminates a crime or infraction, or changes the penalty

1 for a crime or infraction, within the meaning of Section 17556 of
2 the Government Code, or changes the definition of a crime within
3 the meaning of Section 6 of Article XIII B of the California
4 Constitution.

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